

REMARKS

This responds to the office action of 03 September 2003, which rejected claims 1-5 and 7-44 and objected to claim 6. Claims 1-44 remain in the application and are resubmitted for further consideration.

Claims 1-5 and 7-44 were again rejected under 35 U.S.C. 103 as unpatentable over Tanaka et al (5,157,975) in view of Van der Pol (6,336,370). Some of the dependent claims were rejected on the Tanaka et al and Van der Pol combination plus various other patents.

The undersigned again respectfully traverse this rejection for the same reasons set forth in the amendment on 16 July 2003. These reasons are set forth in detail in the amendment of 16 July 2003, they are incorporated herein by reference and are not repeated in this document.

The applicants again assert that the rejection of claims 1-5 and 7-44 is legally insufficient for at least two reasons:

First, the Examiner again ignored the requirement that a 103 obviousness rejection relying on a combination of references must present evidence of a "motivation to combine." Ignoring C.A.F.C. law and M.P.E.P. requirements, the Examiner has, from the outset of this application, ignored the undersigned's arguments on this issue and has failed to present any evidence of a "motivation to combine." Instead of providing such evidence, the Examiner merely relies on an unsupported assertion of "obviousness."

Second, the Examiner refuses to consider the Rule 132 affidavit of Dr. Gary E. Pawlas dated 21 February 2003 which was submitted with the amendment of 21 February 2003. Contrary to M.P.E.P. requirements, this affidavit was ignored by the Examiner in the office action of 23 April 2003, and mentioned briefly (but not discussed) in the recent office action of 03 September 2003. Dr. Pawlas led the team responsible for the development of the present invention, and his affidavit is replete with facts that contradict many of the Examiner's assertions and conclusions.

The undersigned called Supervisory Examiner Edward Lefkowitz and expressed dissatisfaction with the prosecution of this application on 12

September 2003. Various issues were discussed, and it was suggested that the claims could be put in condition for allowance if claim 1 were amended in line 5 to specify PFA. This has been done by the present amendment so that lines 4-6 of claim 1 now recite:

"flow tube apparatus adapted to receive said process material flow, said flow tube apparatus is formed of a material, such as PFA, that does not transfer ions from said flow tube apparatus to said process material."

With this change, claim 1 states, in essence, that the claimed flow tube material that does not transfer ions is formed of a material such as PFA.

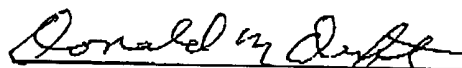
The newly cited patent 5,705,754 to Keita et al has been reviewed and found to be of insufficient relevance to the above discussed issues to warrant a detailed discussion. Keita et al was added to by the last office action to the Tanaka et al / Van der Pol combination and applied against dependent claims 40 and 41 which are directed to a Coriolis flowmeter having a massive base. Once again, the Examiner ignored the issue of evidence of "motivation to combine" and merely asserted claims 40 and 41 to be "obvious."

It is hoped that the above amendment to claim 1 will put the application in condition for allowance.

The application has also been amended on page 1 to refer to related applications of the present assignee that were filed concurrently with the present application.

Respectfully submitted,

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